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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/632,264	07/31/2003	Luis Rivera	TSR001/141985	5480
23444	7590	09/20/2005		
ANDREWS & KURTH, L.L.P. 600 TRAVIS, SUITE 4200 HOUSTON, TX 77002			EXAMINER STRIMBU, GREGORY J	
			ART UNIT 3634	PAPER NUMBER
DATE MAILED: 09/20/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/632,264

Applicant(s)

RIVERA, LUIS

Examiner

Gregory J. Strimbu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 July 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-9 and 19-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-9 and 19-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 July 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Drawings

The replacement drawings filed July 7, 2005 have been approved. The drawings, however, are still objected to because the upper and lower window track strips and the cushioning strip are not shown with the proper cross sectional shading. See MPEP 608.02. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

The abstract of the disclosure is objected to because “to be upwardly and laterally for removal” on line 7 is grammatically awkward and confusing. Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 112

Claims 1-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Recitations such as “an upper most extent . . . facing edge receiving receptacle” on lines 13-15 of claim 1 render the claims indefinite because it is unclear how this special relationship is always maintained. It appears that the uppermost extent of the lower guide track structure cannot always be disposed at an elevation lower than an uppermost extent of the downwardly facing edge receiving receptacle since the lower window track strip can be positioned on its side during shipping, etc. Recitations such as “said first window panel being maintained against contact with said second window panel” on lines 24-25 of claim 1 render the claims indefinite because it is unclear how the window panes are in contact with each other. It appears that the window panes would be spaced from one another, as shown in figure 1, so as to enable the panes to easily slide with respect to one another. Recitations such as “said lower edge” on line 9 of claim 2 render the claims indefinite because it is unclear what element of the invention includes the lower edge to which the applicant is referring. Recitations such

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as "therefrom" on line 13 of claim 5 render the claims indefinite because it is unclear if the applicant is referring to the first and second side walls of the upper guide track structure or the first side wall of the upper window track strip.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 4, 8 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Strawsine. Strawsine discloses a window track assembly, comprising an upper window track strip 23 defining an upwardly facing edge receiving receptacle (not numbered, but defined by 19 and 23) for receiving a lower edge portion of said first structural panel member; an upper guide track structure 29, 31, 32 and 33 extending laterally from said upper window track strip and defining first 36 and second 37 spaced downwardly facing window slide track receptacles, a lower window track strip 38 defining a downwardly facing edge receiving receptacle (not numbered, but defined by 32 and 38) for receiving an upper edge portion of said second structural panel member, a lower guide track structure 19 and 27 extending laterally from said lower window track strip and defining first 21 and second 22 spaced upwardly facing window glide track receptacles, an uppermost extent of said lower guide track structure being disposed at an elevation lower than an uppermost extent of said downwardly facing edge receiving

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receptacle; and first 13 and second 14 window panels each being located and supported for sliding movement within said upper guide track structure and said lower guide track structure, said first window panel being disposed within said first spaced downwardly facing window slide track receptacle and within said first spaced upwardly facing window slide track receptacle, said second window panel being disposed within said second spaced downwardly facing window slide track receptacle and within said second spaced upwardly facing window slide track receptacle, said first window panel being maintained against contact with said second window panel by said first and second spaced downwardly facing window slide track receptacles and said first and second spaced upwardly facing window slide track receptacles. Additionally, Strawsine discloses a resilient member (not numbered, but comprising the upper most rounded protrusion engaging the panel 41 as shown in figure 2) which supports the object 41. With respect to claim 8, the ends of the lower track strip are open since the ends of the lower track strip include the window slide track receptacles and the window slide track receptacles are open. The upper and lower guide track structures include first 31 and second 27 support walls, respectively, extending generally perpendicularly with respect to the guide walls 29, 33, 32 and 19, respectively.

Claim 22 is rejected under 35 U.S.C. 102(b) as being anticipated by Strawsine. Strawsine discloses a window track assembly, comprising an upper window track strip 23 defining an upwardly facing edge receiving receptacle (not numbered, but defined by 23 and 19 as shown in figure 2) for receiving a lower edge portion of said first structural

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panel member; an upper guide track structure 29, 31, 33 extending from said upper window track strip and defining a downwardly facing window slide track receptacle 37; a lower window track strip 38 defining a downwardly facing edge receiving receptacle (not numbered but defined by 38 and 32 as shown in figure 2) for receiving an upper edge portion of said second structural panel member; a resilient member (not numbered, but comprising the upper most right side rounded portion of 31) extending substantially along the length of said lower window track strip and defining a protective cushioning rest designed and arranged for support of an object 41; a lower guide track structure 19, 27 extending from said lower window track strip and defining an upwardly facing window slide track receptacle 22, an uppermost extent of said lower guide track structure being disposed at an elevation lower than said resilient member, said lower guide track structure being disposed laterally with respect to said resilient member; and a window panel 14 being located and slideably supported within said downwardly facing window slide track receptacle and within said upwardly facing window slide track receptacle.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Strawsine as applied to claims 1, 2, 4, 8 and 21 above, and further in view of Gates.

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Gates discloses window track strips which include generally parallel first and second side walls 44 and a bottom wall (not numbered, but shown in figure 4 connecting the side walls to one another). Additionally, Gates discloses serrations 72 and 28 for attaching portions of a window frame together.

It would have been obvious to one of ordinary skill in art to provide Strawsine with parallel first and second side walls and serrations, as taught by Gates, to more securely attach the track assembly to the structural wall members.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Strawsine in view of Gates as applied to claims 5-7 above, and further in view of Bakke. Bakke discloses a window track assembly 23 having openings 33 in the bottom of channels 26 and 27.

It would have been obvious to one of ordinary skill in the art to provide Strawsine, as modified above, with openings, as taught by Bakke, to prevent water from accumulating in the channels.

Claims 1, 4, 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Strawsine in view of Kiefer. Strawsine discloses a window track assembly, comprising an upper window track strip 23 defining an upwardly facing edge receiving receptacle (not numbered, but defined by 19 and 23) for receiving a lower edge portion of said first structural panel member; an upper guide track structure 29, 31, 32 and 33 extending laterally from said upper window track strip and defining first 36

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and second 37 spaced downwardly facing window slide track receptacles, a lower window track strip 38 defining a downwardly facing edge receiving receptacle (not numbered, but defined by 32 and 38) for receiving an upper edge portion of said second structural panel member, a lower guide track structure 19 and 27 extending laterally from said lower window track strip and defining first 21 and second 22 spaced upwardly facing window glide track receptacles, an uppermost extent of said lower guide track structure being disposed at an elevation lower than an uppermost extent of said downwardly facing edge receiving receptacle; and first 13 and second 14 window panels each being located and supported for sliding movement within said upper guide track structure and said lower guide track structure, said first window panel being disposed within said first spaced downwardly facing window slide track receptacle and within said first spaced upwardly facing window slide track receptacle, said second window panel being disposed within said second spaced downwardly facing window slide track receptacle and within said second spaced upwardly facing window slide track receptacle, said first window panel being maintained against contact with said second window panel by said first and second spaced downwardly facing window slide track receptacles and said first and second spaced upwardly facing window slide track receptacles. Additionally, Strawsine discloses a channel (not numbered, but seen opening upwardly toward the element 41 in figure 2) extending upwardly from the downwardly facing edge receiving receptacle.

Kiefer discloses a resilient rubber cushioning strip 10.

It would have been obvious to one of ordinary skill in the art to provide Strawsine with a cushioning strip, as taught by Kiefer, to ensure that the track assembly does not rattle.

Response to Arguments

Applicant's arguments filed July 7, 2005 have been fully considered but they are not persuasive. With respect to the applicant's comments concerning Strawsine, the examiner respectfully disagrees. Strawsine, in figure 2, discloses an upper window track strip 23 defining an upwardly facing edge receiving receptacle and a lower window track 38 defining a downwardly facing edge receiving receptacle. It should be noted that the claims do not require each track strips be directly connected to its respective window slide track receptacles.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. The applicant has amended the claims to at least include the new limitation of an uppermost extent of the lower guide track structure being disposed at an elevation lower than an uppermost extent of the downwardly facing edge receiving receptacle. See lines 13-15.

Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory J. Strimbu whose telephone number is 571-272-6836. The examiner can normally be reached on Monday through Friday 8:00 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on 571-272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Gregory J. Strimbu
Primary Examiner

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September 16, 2005